

Union Calendar No. 430

110TH CONGRESS
2D SESSION

H. R. 4179

[Report No. 110-686]

To amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals wrongly delayed or prohibited from boarding a flight, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2007

Ms. CLARKE (for herself, Mr. THOMPSON of Mississippi, Ms. JACKSON-LEE of Texas, Mr. PERLMUTTER, Mr. CARNEY, Ms. NORTON, Mr. AL GREEN of Texas, Mr. PASCRELL, Mrs. CHRISTENSEN, Mr. CUELLAR, and Ms. LORETTA SANCHEZ of California) introduced the following bill; which was referred to the Committee on Homeland Security

JUNE 5, 2008

Additional sponsors: Mr. HIGGINS, Mr. GONZALEZ, Ms. ZOE LOFGREN of California, Mrs. LOWEY, Ms. LINDA T. SÁNCHEZ of California, and Mr. McDERMOTT

JUNE 5, 2008

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on November 14, 2007]

A BILL

To amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals wrongly

delayed or prohibited from boarding a flight, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Fair, Accurate, Secure,*
 5 *and Timely Redress Act of 2008” or the “FAST Redress*
 6 *Act of 2008”.*

7 **SEC. 2. ESTABLISHMENT OF APPEAL AND REDRESS PROC-**
 8 **ESS FOR INDIVIDUALS WRONGLY DELAYED**
 9 **OR PROHIBITED FROM BOARDING A FLIGHT,**
 10 **OR DENIED A RIGHT, BENEFIT, OR PRIVI-**
 11 **LEGE.**

12 *(a) IN GENERAL.—Subtitle H of title VIII of the*
 13 *Homeland Security Act of 2002 (6 U.S.C. 451 et seq.) is*
 14 *amended by adding at the end the following new section:*

15 **“SEC. 890A. APPEAL AND REDRESS PROCESS FOR PAS-**
 16 **SENGERS WRONGLY DELAYED OR PROHIB-**
 17 **ITED FROM BOARDING A FLIGHT, OR DENIED**
 18 **A RIGHT, BENEFIT, OR PRIVILEGE.**

19 *“(a) ESTABLISHMENT.—Not later than 30 days after*
 20 *the date of the enactment of this section, the Secretary shall*
 21 *establish a timely and fair process for individuals who be-*
 22 *lieve they were delayed or prohibited from boarding a com-*
 23 *mercial aircraft or denied a right, benefit, or privilege be-*
 24 *cause they were wrongly identified as a threat when*

1 *screened against any terrorist watchlist or database used*
2 *by the Transportation Security Administration (TSA) or*
3 *any office or component of the Department.*

4 “(b) *OFFICE OF APPEALS AND REDRESS.*—

5 “(1) *ESTABLISHMENT.*—*The Secretary shall es-*
6 *tablish in the Department an Office of Appeals and*
7 *Redress to implement, coordinate, and execute the*
8 *process established by the Secretary pursuant to sub-*
9 *section (a). The Office shall include representatives*
10 *from the TSA and such other offices and components*
11 *of the Department as the Secretary determines appro-*
12 *priate.*

13 “(2) *COMPREHENSIVE CLEARED LIST.*—*The*
14 *process established by the Secretary pursuant to sub-*
15 *section (a) shall include the establishment of a method*
16 *by which the Office, under the direction of the Sec-*
17 *retary, will maintain and appropriately disseminate*
18 *a comprehensive list, to be known as the ‘Comprehen-*
19 *sive Cleared List’, of individuals who—*

20 “(A) *were misidentified as an individual on*
21 *any terrorist watchlist or database;*

22 “(B) *completed an approved Department of*
23 *Homeland Security appeal and redress request*
24 *and provided such additional information as re-*

1 *quired by the Department to verify the individ-*
2 *ual's identity; and*

3 *“(C) permit the use of their personally iden-*
4 *tifiable information to be shared between mul-*
5 *tiple Departmental components for purposes of*
6 *this section.*

7 *“(3) USE OF COMPREHENSIVE CLEARED LIST.—*

8 *“(A) IN GENERAL.—The Secretary shall—*

9 *“(i) except as provided in subpara-*
10 *graph (B), transmit to the TSA or any*
11 *other appropriate office or component of the*
12 *Department, other Federal, State, local, and*
13 *tribal entities, and domestic air carriers*
14 *and foreign air carriers that use any ter-*
15 *rorist watchlist or database, the Comprehen-*
16 *sive Cleared List and any other information*
17 *the Secretary determines necessary to re-*
18 *solve misidentifications and improve the ad-*
19 *ministration of the advanced passenger*
20 *prescreening system and reduce the number*
21 *of false positives; and*

22 *“(ii) ensure that the Comprehensive*
23 *Cleared List is taken into account by all*
24 *appropriate offices or components of the De-*

1 *partment when assessing the security risk of*
2 *an individual.*

3 “(B) *TERMINATION.*—

4 “(i) *IN GENERAL.*—*The transmission*
5 *of the Comprehensive Cleared List to domes-*
6 *tic air carriers and foreign air carriers*
7 *under clause (i) of subparagraph (A) shall*
8 *terminate on the date on which the Federal*
9 *Government assumes terrorist watchlist or*
10 *database screening functions.*

11 “(ii) *WRITTEN NOTIFICATION TO CON-*
12 *GRESS.*—*Not later than 15 days after the*
13 *date on which the transmission of the Com-*
14 *prehensive Cleared List to the air carriers*
15 *referred to in clause (i) of this subpara-*
16 *graph terminates in accordance with such*
17 *clause, the Secretary shall provide written*
18 *notification to the Committee on Homeland*
19 *Security of the House of Representatives*
20 *and the Committee on Commerce, Science,*
21 *and Transportation and the Committee on*
22 *Homeland Security and Governmental Af-*
23 *airs of the Senate of such termination.*

24 “(4) *INTERGOVERNMENTAL EFFORTS.*—*The Sec-*
25 *retary may—*

1 “(A) enter into memoranda of under-
2 standing with other Federal, State, local, and
3 tribal agencies or entities, as necessary, to im-
4 prove the appeal and redress process and for
5 other purposes such as to verify an individual’s
6 identity and personally identifiable information;
7 and

8 “(B) work with other Federal, State, local,
9 and tribal agencies or entities that use any ter-
10 rorist watchlist or database to ensure, to the
11 greatest extent practicable, that the Comprehen-
12 sive Cleared List is considered when assessing
13 the security risk of an individual.

14 “(5) *HANDLING OF PERSONALLY IDENTIFIABLE*
15 *INFORMATION.*—The Secretary, in conjunction with
16 the Chief Privacy Officer of the Department, shall—

17 “(A) require that Federal employees of the
18 Department handling personally identifiable in-
19 formation of individuals (in this paragraph re-
20 ferred to as ‘PII’) complete mandatory privacy
21 and security training prior to being authorized
22 to handle PII;

23 “(B) ensure that the information main-
24 tained under this subsection is secured by
25 encryption, including one-way hashing, data

1 *anonymization techniques, or such other equiva-*
2 *lent technical security protections as the Sec-*
3 *retary determines necessary;*

4 “(C) *limit the information collected from*
5 *misidentified passengers or other individuals to*
6 *the minimum amount necessary to resolve an*
7 *appeal and redress request;*

8 “(D) *ensure that the information main-*
9 *tained under this subsection is shared or trans-*
10 *ferred via an encrypted data network that has*
11 *been audited to ensure that the anti-hacking and*
12 *other security related software functions perform*
13 *properly and are updated as necessary;*

14 “(E) *ensure that any employee of the De-*
15 *partment receiving the information maintained*
16 *under this subsection handles such information*
17 *in accordance with section 552a of title 5,*
18 *United States Code, the Federal Information Se-*
19 *curity Management Act of 2002 (Public Law*
20 *107–296), and other applicable laws;*

21 “(F) *only retain the information main-*
22 *tained under this subsection for as long as need-*
23 *ed to assist the individual traveler in the appeal*
24 *and redress process;*

1 “(G) engage in cooperative agreements with
2 appropriate Federal agencies and entities, on a
3 reimbursable basis, to ensure that legal name
4 changes are properly reflected in any terrorist
5 watchlist or database and the Comprehensive
6 Cleared List to improve the appeal and redress
7 process and to ensure the most accurate lists of
8 identifications possible (except that section 552a
9 of title 5, United States Code, shall not prohibit
10 the sharing of legal name changes among Federal
11 agencies and entities for the purposes of this sec-
12 tion); and

13 “(H) conduct and publish a privacy impact
14 assessment of the appeal and redress process es-
15 tablished under this section and transmit the as-
16 sessment to the Committee on Homeland Secu-
17 rity of the House of Representatives, and the
18 Committee on Commerce, Science, and Transpor-
19 tation and the Committee on Homeland Security
20 and Governmental Affairs of the Senate.

21 “(6) INITIATION OF APPEAL AND REDRESS PROC-
22 ESS AT AIRPORTS.—At each airport at which—

23 “(A) the Department has a presence, the Of-
24 fice shall provide written information to air car-
25 rier passengers to begin the appeal and redress

1 *process established pursuant to subsection (a);*
2 *and*

3 *“(B) the Department has a significant pres-*
4 *ence, provide the written information referred to*
5 *in subparagraph (A) and ensure a TSA super-*
6 *visor who is trained in such appeal and redress*
7 *process is available to provide support to air*
8 *carrier passengers in need of guidance con-*
9 *cerning such process.*

10 *“(7) REPORT TO CONGRESS.—Not later than 240*
11 *days after the date of the enactment of this section,*
12 *the Secretary shall submit to the Committee on*
13 *Homeland Security of the House of Representatives*
14 *and the Committee on Commerce, Science, and Trans-*
15 *portation and the Committee on Homeland Security*
16 *and Governmental Affairs of the Senate a report on*
17 *the status of information sharing among users at the*
18 *Department of any terrorist watchlist or database.*
19 *The report shall include the following information:*

20 *“(A) A description of the processes and the*
21 *status of the implementation of this section to*
22 *share the Comprehensive Cleared List with other*
23 *Department offices and components and other*
24 *Federal, State, local, and tribal authorities that*
25 *utilize any terrorist watchlist or database.*

1 “(B) A description of the extent to which
2 such other Department offices and components
3 are taking into account the Comprehensive
4 Cleared List.

5 “(C) Data on the number of individuals
6 who have sought and successfully obtained re-
7 dress through the Office of Appeals and Redress.

8 “(D) Data on the number of individuals
9 who have sought and were denied redress through
10 the Office of Appeals and Redress.

11 “(E) An assessment of what impact infor-
12 mation sharing of the Comprehensive Cleared
13 List has had on misidentifications of individuals
14 who have successfully obtained redress through
15 the Office of Appeals and Redress.

16 “(F) An updated privacy impact assess-
17 ment.

18 “(c) *TERRORIST WATCHLIST OR DATABASE DE-*
19 *FINED.*—In this section, the term ‘terrorist watchlist or
20 database’ means any terrorist watchlist or database used
21 by the Transportation Security Administration or any of-
22 fice or component of the Department of Homeland Security
23 or specified in Homeland Security Presidential Directive-
24 6, in effect as of the date of the enactment of this section.”.

1 (b) *INCORPORATION OF SECURE FLIGHT*.—Section
2 44903(j)(2) of title 49, United States Code, is amended—

3 (1) in subparagraph (C)(iii)—

4 (A) by redesignating subclauses (II) through
5 (VII) as subclauses (III) through (VIII), respec-
6 tively; and

7 (B) by inserting after subclause (I) the fol-
8 lowing new subclause:

9 “(II) ensure, not later than 30
10 days after the date of the enactment of
11 the FAST Redress Act of 2008, that the
12 procedure established under subclause
13 (I) is incorporated into the appeals
14 and redress process established under
15 section 890A of the Homeland Security
16 Act of 2002;”;

17 (2) in subparagraph (E)(iii), by inserting before
18 the period at the end the following: “, in accordance
19 with the appeals and redress process established under
20 section 890A of the Homeland Security Act of 2002”;
21 and

22 (3) in subparagraph (G)—

23 (A) in clause (i), by adding at the end the
24 following new sentence: “The Assistant Secretary
25 shall incorporate the process established pursu-

1 *ant to this clause into the appeals and redress*
 2 *process established under section 890A of the*
 3 *Homeland Security Act of 2002.”; and*

4 *(B) in clause (ii), by adding at the end the*
 5 *following new sentence: “The Assistant Secretary*
 6 *shall incorporate the record established and*
 7 *maintained pursuant to this clause into the*
 8 *Comprehensive Cleared List established and*
 9 *maintained under such section 890A.”.*

10 *(c) CONFORMING AMENDMENT.—Title 49, United*
 11 *States Code, is amended by striking section 44926 (and the*
 12 *item relating to such section in the analysis for chapter 449*
 13 *of title 49).*

14 *(d) CLERICAL AMENDMENT.—Section 1(b) of the*
 15 *Homeland Security Act of 2002 (6 U.S.C. 101(b)) is*
 16 *amended by adding after the item relating to section 890*
 17 *the following new item:*

“Sec. 890A. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege.”.

Amend the title so as to read: “A bill to amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege, and for other purposes.”.

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